

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANELL PRATT.

No. C 13-1225 YGR (PR)

Petitioner,

**ORDER LIFTING STAY AND  
DIRECTING RESPONDENT TO SHOW  
CAUSE WHY THE WRIT SHOULD NOT  
BE GRANTED**

B. GOWER, Warden.

## Respondent.

B. GOWER, Warden,  
Respondent.

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254

On August 15, 2013, the Court issued an Order granting Petitioner's request for a stay of proceedings while he returned to state court to exhaust his administrative remedies. On December 11, 2013, Petitioner informed the Court that his state proceedings had concluded, and he filed a motion to lift the stay. However, he did not amend the stayed petition to add the newly-exhausted claims. Therefore, in an Order dated January 3, 2014, the Court directed Petitioner to file an amended petition in this Court which incorporates the newly-exhausted claims he intends to raise in federal court.

On February 10, 2014, Petitioner filed a letter indicating that when he originally began this habeas action on March 19, 2013, he filed a mixed petition, which included both his exhausted and unexhausted claims. Therefore, Petitioner requests that the Court file his original petition as his first amended petition because it contains all his newly-exhausted claims. The Court construes Petitioner's request as an implied motion for leave to file his first amended petition.

Before the Court are Petitioner's motion to lift the stay and his implied motion for leave to file his first amended petition.

Good cause appearing, Petitioner's motion to lift the stay (Docket No. 10) is GRANTED. Petitioner is also GRANTED leave to file his first amended petition. The Clerk of the Court is directed to re-file his original petition (Docket No. 1) and label it as Petitioner's "First Amended

1 Petition." The Clerk is also directed to mark it as filed on February 10, 2014, the date the Court  
2 received Petitioner's implied motion for leave to file his first amended petition.

3 The Clerk shall REOPEN this case and serve a copy of this Order and the First Amended  
4 Petition and all attachments thereto upon Respondent's attorney, the Attorney General of the State of  
5 California. The Clerk shall also serve a copy of this Order on Petitioner at his most current address.

6 Respondent shall file with this Court and serve upon Petitioner, within **sixty (60) days** of the  
7 issuance of this Order, an answer conforming in all respects to Rule 5 of the Rules Governing  
8 Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent  
9 shall file with the answer a copy of all portions of the state trial record that have been transcribed  
10 previously and that are relevant to a determination of the issues presented by the petition.

11 If Petitioner wishes to respond to the answer, he shall do so by filing a traverse with the  
12 Court and serving it on Respondent within **twenty-eight (28) days** of his receipt of the answer.  
13 Otherwise, the petition will be deemed submitted and ready for decision twenty-eight days after the  
14 date Petitioner is served with Respondent's answer. Petitioner is reminded that all communications  
15 with the Court, whether by way of formal legal motions or informal letters, must be served on  
16 Respondent by mailing a true copy of the document to Respondent's counsel.

17 Extensions of time are not favored, though reasonable extensions will be granted. Any  
18 motion for an extension of time must be filed no later than **seven (7) days** prior to the deadline  
19 sought to be extended.

20 IT IS SO ORDERED.

21 DATED: February 26, 2014



YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT COURT JUDGE

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